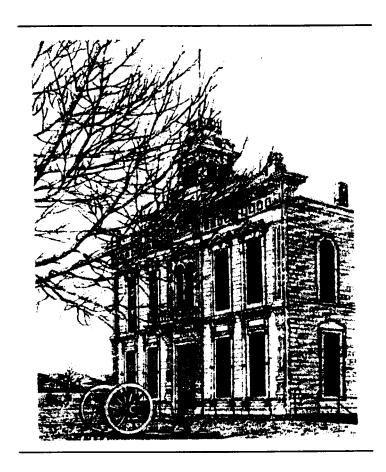
1999-2000 **MONO COUNTY**

GRAND JURY



Final Report

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Cover Illustration by George Todd

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF MONO

IN RE: GENERAL ORDER
Grand Jury

Good cause appearing, the Court hereby orders the 1999-2000 Grand Jury Final Report filed.

Dated this 30 day of June, 2000.

EDWARD FORSTENZER
Presiding Judge of the Superior Court

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COUNTY OF MONO GRAND JURY

P.O. Box 1037 • Mammoth Lakes, CA 93546

June 30, 2000

To: Edward Forstenzer
Presiding Judge of the Superior Court

I wish to thank you for the privilege of serving on the 1999-2000 Mono County Grand Jury and for appointing me as foreman. It has been an invaluable personal experience.

I want to thank you publicly for the fine and diverse group of citizens you empaneled to serve on this grand jury. All members were active and thoughtful as they performed their duties. They are a credit to the county and to the grand jury process.

C.D. Ritter, who served as secretary to the 1999-2000 Grand Jury, worked above and beyond the call of duty to carry out her functions. The grand jury could not have run as smoothly without her help.

I wish to thank you personally for your willingness to meet with me to discuss grand jury matters. It is apparent to me that you value the grand jury process and are always ready to provide assistance.

The grand jury wishes to thank District Attorney George Booth and his staff for their willingness to assist this grand jury. County Counsel Marshall Rudolph and his staff were called upon several times to render opinions and provide information as well. Those efforts were appreciated.

Sincerely.

Martin C. Andrews, Foreman

Mono County Grand Jury 1999-2000

COUNTY OF MONO GRAND JURY

P.O. Box 1037 • Mammoth Lakes, CA 93546

June 30, 2000

To: Citizens of Mono County

The grand jury process in Mono County, California, is alive and well as we enter the new millennium. The 1999-2000 Grand Jury has proved to be a diverse and conscientious group of citizens committed to serving their county. It has been a pleasure to serve with them.

The function of the grand jury is to help ensure that governmental entities within Mono County are serving the interest of the citizens. Government, by its very nature and if left unchecked, becomes self-serving and self-perpetuating. The grand jury is one tool available to thwart this natural tendency.

The grand jury serves its public-watchdog function in the absence of political pressure. The terms of its members are predefined and without tenure. The members are from all walks of life, have varying ages, and are drawn from all areas within the county. The grand jury's investigations and deliberations are held confidentially behind closed doors. Without compensation, other than reimbursement for direct expenses, the members volunteer their time for an entire year to carry out their duties. In this rather anonymous fashion they serve for the good of their community. The members of this grand jury should be proud of their contributions to the process.

America is constitutionally designed to operate with three branches of government: the executive, the judicial and the legislative. They are complete with checks and balances on each other. A new branch of government is emerging, especially on a federal level. That branch could be referred to as the regulatory branch. This trend appears contradictory to the Constitution. Its effects bear watching by future grand juries.

I encourage every citizen to take part in the grand jury process. Jurors see government in action from an interesting perspective. Contact the Mono County Superior Court or one of the judges and express your willingness to serve. You will be glad you did.

Sincerely,

Martin C. Andrews, Foreman

Mono County Grand Jury 1999-2000

INTRODUCTION TO THE GRAND JURY

Shrouded in secrecy, the functions of a grand jury are not widely known. The following summary describes what a grand jury is and does.

The grand jury system dates back to 12th century England during the reign of Henry II. Twelve "good and lawful men" were assembled in each village to investigate anyone suspected of crimes. The jurors passed judgment based on what they themselves knew about a defendant and the circumstances of the case. It was believed that neighbors and associates were the most competent to render a fair verdict. By the end of the 17th century, the principle that jurors must reach a verdict solely on the basis of evidence was established, and that practice continues today. Although California Supreme Court decisions have curtailed the historical criminal indictment function, the grand jury still serves as an inquisitorial and investigative body functioning as a "watchdog" over regional government.

The Mono County grand jury is a civil grand jury and is not charged with the responsibility for criminal indictments except in the case of elected or appointed county officials. The primary function of the grand jury, and the main reason for its existence, is the examination of county and city government, including special legislative districts. The grand jury seeks to assure that there is honest, efficient and effective government in the best interest of the citizenry. It reviews and evaluates procedures, methods and systems used by governmental agencies to determine compliance with their own stated objectives and to ensure that government lives up to its responsibilities and does not exceed its authority.

The grand jury responds to citizen complaints and investigates alleged deficiencies or improprieties in government. In addition, it investigates the county's finances, facilities and programs. The grand jury can not investigate disputes between private citizens or matters under litigation. Jurors are sworn to secrecy, and all citizen complaints are treated in strict confidence.

The Mono County grand jury is a volunteer body of 19 citizens from all walks of life throughout the county. Unlike jurors randomly selected to serve for a trial, grand jurors are nominated, primarily by the judicial system, to serve a year-long term beginning July 1. The selection is based upon their concern for a better society and ability to be fair and impartial. Jurors are eligible to serve two consecutive terms, with the holdovers providing continuity for lengthy investigations. Grand jurors are reimbursed mileage and paid \$10 per meeting.

One of the major goals of a grand jury is the assembling and publication of its Final Report at the mandated end-of-term date of June 30. This document is the product of concentrated group effort and contains recommendations for improving various aspects of governmental operations. When completed, the Final Report is submitted to the presiding judge of the Superior Court. After release by the court, it is directed first to county agencies for review, then to the communications media. The Final Report is a matter of public record, kept on file at the county clerk's office.

GRAND JURY & STAFF

JURORS

Martin Andrews

Benton

Ellen Bartlett Hammil Valley

Mary Jo Bauer Mammoth Lakes

Dan Bryant Bridgeport

Jim Dodson
Paradise Estates

John Eaton Crowley Lake Ted Engstrom Bridgeport

Susan Jensen Chalfant Valley

Raymond Johnson Coleville

E.L. Maner

Mammoth Lakes

Paul McCahon June Lake Don Mooneyham

Coleville

Mark Newgard

Mammoth Lakes

Gerard Oliveira

Mammoth Lakes

Bret Paulson Crowley Lake

C.D. Ritter

Mammoth Lakes

Kent Stoddard Bridgeport

RESIGNED JURORS

Diana Toomey
June Lake

Dan Wright
Mammoth Lakes

OFFICERS

Foreman Martin Andrews

Marun Andiews

Foreman Pro Tem Gerard Oliveira Secretary C.D. Ritter

Assistant Secretary Susan Jensen Sergeant-at-Arms
Ted Engstrom

ADVISORS

Edward Forstenzer Presiding Judge of the Superior Court

Christiana Darlington
Deputy County Counsel

George Booth
District Attorney

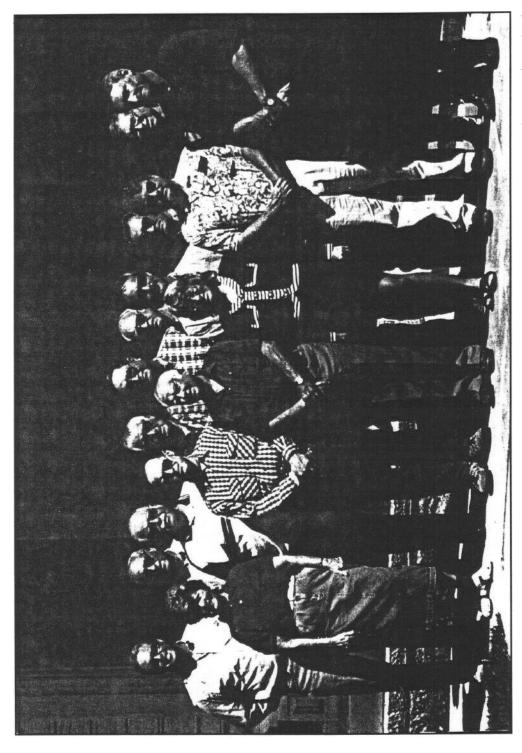
Stacey Simon
Deputy County Counsel

Marshall Rudolph County Counsel

Bob Dennis

Court Executive Officer

THE MONO COUNTY GRAND JURY 1999-2000



E.L. Maner, Dan Bryant, Martin Andrews (foreman), Don Mooneyham, C.D. Ritter (secretary), Gerard Left to right: Paul McCahon, Mary Jo Bauer, John Eaton, Ted Engstrom (sergeant-at-arms), Kent Stoddard, Oliveira (foreman pro tem), Raymond Johnson, Bret Paulson, Jim Dodson and Mark Newgard. Not pictured: Ellen Bartlett and Susan Jensen (assistant secretary). Photo by Tammy Turner

GRAND JURY COMMITTEES

ADMINISTRATIVE, AUDIT & FINANCE

Mark Newgard, Chair
Martin Andrews • John Eaton

BUILDING, PLANNING & ENVIRONMENT

Susan Jensen, Chair
Raymond Johnson • Mark Newgard

EDUCATION

Kent Stoddard, Chair
Ellen Bartlett • Dan Bryant
Don Mooneyham • Bret Paulson

EXECUTIVE & HANDBOOK

Martin Andrews, Chair John Eaton • C.D. Ritter

HEALTH & SOCIAL SERVICES

John Eaton, Chair
Ellen Bartlett • Ted Engstrom

LAW & JUSTICE

Don Mooneyham, Chair
Ted Engstrom • Paul McCahon
C.D. Ritter • Kent Stoddard

PARKS, RECREATION & PUBLIC WORKS

Bret Paulson, Chair Gerard Oliveira

SPECIAL LEGISLATIVE DISTRICTS

FIRE & WATER

Jim Dodson, Chair Susan Jensen • Paul McCahon

MAMMOTH LAKES, TOWN OF

Gerard Oliveira, Chair Mary Jo Bauer • E.L. Maner Mark Newgard

MAMMOTH/YOSEMITE AIRPORT

E.L. Maner, Chair
Jim Dodson • Raymond Johnson
Mark Newgard • Gerard Oliveira

CITIZEN COMPLAINTS

An important function of a grand jury is to respond to legitimate citizen complaints, submitted in writing and signed. If a complaint falls within the grand jury's purview, the foreman delegates it to the chair of an established grand jury committee or to a legal advisor. The complaint then is reviewed for possible further action. Final resolution of a complaint is reviewed by the entire jury.

Any citizen who thinks a concern warrants investigation by the grand jury can send a signed complaint to: Mono County Grand Jury, P.O. Box 1037, Mammoth Lakes, CA 93546.

Of the following complaints requesting investigation and intervention by the 1999-2000 Grand Jury, two were determined to require no further action, and five were deemed beyond its jurisdiction and authority:

99-01	Alleged illegal surveillance of private residences, businesses and vehicles
99-02 A,B 99-03 99-04	Concerns about the relationship between the Town of Mammoth Lakes and the development and operation of the Mammoth/Yosemite airport
99-05	Response by complainant to findings of Law & Justice committee of 1998-99 Grand Jury
99-06	Alleged inadequate response to complaint by 1998-99 Grand Jury
99-07 A	Alleged out-of-state residence by a director sitting on the board of the Mammoth Community Water District
99-07 B	Alleged abuse of position on the Mammoth Community Water District board of directors
99-08	Alleged discrimination in hiring county building official
99-09	Alleged discriminatory county health care policy
99-10 A,B,C	Alleged employment discrimination in hiring district maintenance supervisor
99-11	Alleged employment discrimination in hiring district maintenance supervisor
99-12 A	Alleged refusal to follow court order issued to Mono County by California Department of Social Services
99-12 B	Alleged denial of benefits and perceived mistreatment by Social Services Department personnel
99-13	Alleged failure of visiting judge adjudicating a local case to file an oath of office in Mono County.

COMMITTEE REPORTS

ADMINISTRATIVE, AUDIT & FINANCE COMMITTEE

Mark Newgard, Chair Martin Andrews John Eaton

BACKGROUND

An audit review is a mandatory function of the grand jury.

Mono County has not performed financial functions well for several years, according to outside auditors. Recommended improvements and practices have gone unheeded and unimplemented. A general and casual disregard for taxpayer money was apparent throughout much of county government.

The 1998-99 Grand Jury recommended strong actions to create better financial management and controls within the county. These actions included the recommendations to modify the county's organization chart and strengthen the authority of the county administrative officer.

FINDINGS

- 1. The audit report is much improved over past year's. Most all recommendations have been implemented. Some departments seem to resist the changes, but generally they are complying.
- 2. The effect of a "strong" CAO, with non-elected department heads responsible directly to that person, is most apparent. It has resulted in a refreshing change in the audit report. Many deficiencies that appeared year to year have been corrected. The problems detailed in the draft audit have been swiftly and effectively managed in most instances. Some departments, however, appear unable or unwilling to accept change and guidance.
- 3. Staffing and training in the auditor-controller's office remains a problem. The department is unable to attract enough qualified and trained employees in the Bridgeport office.
- 4. The much-improved audit report seems to be a product of county management. There is the possibility that part of the improvement results from a change in auditing firms.
- 5. The present CAO has a desire to improve the personnel evaluation procedure. This is a professional approach toward a positive and potentially corrective practice of letting employees know where they stand, what they have done in the past, and how to plan for the future.

- 1. It is strongly recommended that the CAO maintain vigilance to ensure that the departments do not fall back into previous accounting practices.
- 2. Consideration should be given to splitting the auditor-controller office between Bridgeport and Mammoth Lakes to gain access to the larger pool of qualified people in the Mammoth area.

- 3. The CAO should follow through on developing a personnel evaluation program for all county employees.
 - 4. Future grand juries should review the Town of Mammoth Lakes audit report.

BUILDING, PLANNING & ENVIRONMENT COMMITTEE

Susan Jensen, Chair Mary Jo Bauer Raymond Johnson Mark Newgard

BACKGROUND

The Building, Planning and Environment committee received one complaint during this term.

The letter of complaint (99-08) expressed concern with the hiring practices of the building department. This complaint was referred to the Mono County district attorney's office for investigation.

FINDINGS

The district attorney's office found no evidence of improper hiring practices, and the matter was closed.

RECOMMENDATIONS

No recommendations.

EDUCATION COMMITTEE

Kent Stoddard, Chair
Ellen Bartlett
Dan Bryant
Don Mooneyham
Bret Paulson

BACKGROUND

The Education committee received no letters of complaint during this term.

The committee followed up ongoing concerns of the 1998-99 Grand Jury regarding the implementation of school safety plans, and various operations of the county library system.

FINDINGS

- 1. Individual safety plans from each Eastern Sierra Unified School District school site were received from the office of the superintendent. These reports will be maintained by the grand jury for reference as needed.
- 2. The inadequate Small Library Management System's (SLIMS) automated circulation system that was being used by the Coleville branch library is in the process of being replaced by the Data Research Associates' (DRA) automated circulation system due to installation of the Internet. Several computers at the facility are hooked up to the DRA system and full implementation is expected during the summer of 2000. The lack of good DRA training materials for local use is still a concern, and an effort to obtain such materials is currently in the planning stages.
- 3. The entire county library system is now being administered by a full-time, qualified county librarian, whereas in the past libraries had been handled by regional librarians.

RECOMMENDATIONS

No recommendations.

HEALTH & HUMAN SERVICES COMMITTEE

John Eaton, Chair Ellen Bartlett Ted Engstrom

BACKGROUND

The Health and Human Services committee received three complaints during this term:

1. A letter of complaint (99-12) was received from a June Lake resident reporting problems with the Mono County Department of Social Services in obtaining food stamps. Originally the letter was sent to Supervisor Joann Ronci, then referred to the grand jury.

The chief investigator in the district attorney's office was asked to investigate the matter. The complainant was interviewed first. Subsequent interviews were conducted with the following: a confidential informant representing the Mono County health department, the CEO of Mammoth Hospital, a representative of the Healthy Family Dental Clinic, and the director and staff of the Department of Social Services.

The extensive interviews were occasioned by perceptions on the part of the complainant and others that the Department of Social Services was not providing benefits appropriately and that applicants were treated in a demeaning and discourteous manner.

The committee held a follow-up meeting with the director of the Department of Social Services.

- 2. A letter to the editor of the *Mammoth Times* newspaper described concerns about the Bridgeport Medical Clinic and its handling of medical costs and billing.
 - 3. A letter of complaint (99-13) alleged a problem with the qualification of a visiting judge.

FINDINGS

1. The complainant's problems (99-12 A, B) stemmed primarily from an apparent inability to understand regulations in the welfare system as to allowable assets before assistance can be given. The problem revolved around assets that were not in the direct control of the complainant but to which she had legal access. Feelings of resentment might not have been met with a degree of understanding one might hope to see in a public agency, but the department acted in a manner wholly consistent with existing regulations.

This complaint unearthed other allegations and impressions of unsympathetic treatment of clients by the Department of Social Services. There is very little documentation, but there is a pervasive feeling of such, particularly among the Hispanic population.

The department head has been aware of these problems of perception and has taken several steps toward improvement. In-house training and outside instruction have been instituted. A significant handicap is the relatively low pay offered social service employees. There is also a recognized need for increased communication not only with potential clients but the community as a whole. Incentive should be offered for bilingual, Spanish-speaking staff.

- 2. The letter to the editor noted above is a matter for the county administrative officer and the board of supervisors, not the grand jury.
- 3. Complaint 99-13 was researched by the county counsel's office, which determined that all judges, including visiting judges, have satisfied the requirements of oath of office to sit in Mono County.

- 1. The Department of Social Services can be commended for its efforts to improve service.
- 2. The Department of Social Services needs stronger support from the board of supervisors, primarily in providing a pay scale on par with that offered in locations from which our county hires. Bilingual skills should be rewarded with additional pay.

LAW & JUSTICE COMMITTEE

Don Mooneyham, Chair
Ted Engstrom
Paul McCahon
C.D. Ritter
Kent Stoddard

BACKGROUND

The Law and Justice committee received no letters of complaint during this term.

The committee inspected the county jail and probation department for fire and safety. Other jurors joined the committee to inspect the jail's entire facility as well.

No contact was made with the Mammoth Lakes Police Department during this term.

FINDINGS

The inspections found the jail and probation department, as well as administrative offices, to be in very good condition, clean, well managed and adequately staffed. The sheriff's department has the equipment to meet county needs in most situations. One of its challenges is operating in a large, diverse geographic area. The sheriff's span of control, which encompasses the entire 125-mile length of Mono County, sometimes dictates that he rely on officers to act on their own initiative, abilities and past experience or training without the help of backup or supervisor assistance.

Mono County has unique problems that other California counties do not share. For example, rural residents and city visitors sometimes have different kinds of requests. Sheriff's personnel also must plan and train for potential emergency scenarios such as avalanches, extreme winter storms, floods and earthquake threats. They must prepare for when, not if, such emergencies occur. The sheriff's department has addressed these inevitable situations with contingency plans and equipment in a professional manner.

- 1. The extra responsibilities assumed by the sheriff's department due to Mono County's vast geographic size may justify approval of requests for additional equipment and personnel.
- 2. Future grand juries should meet with the Mammoth Lakes Police Department to address its operational needs.
- 3. A jail facility in Mammoth Lakes isn't advisable at this time because of stiff state requirements. Also, a shift of the present operations from Bridgeport to Mammoth Lakes would incur beyond-reasonable costs to the county and the town, about \$10 million according to Sheriff Dan Paranick.
- 4. Next year's grand jury should obtain from both law enforcement agencies in the county written procedures for handling citizen complaints as per California Penal Code Section 832.5, which is required of all agencies that employ peace officers.

PARKS, RECREATION & PUBLIC WORKS COMMITTEE

Bret Paulson, Chair Gerard Oliveira

BACKGROUND

The Parks, Recreation and Public Works committee received four complaints during this term.

The letters of complaint (99-10 A,B,C and 99-11) pertained to the selection process in hiring the maintenance supervisor of the Mono County public works department.

FINDINGS

Upon investigation, the committee learned that Mono County was working directly with Local #39, the union representing county employees, on this matter. The grievances regarding the hiring of the public works maintenance supervisor were resolved.

RECOMMENDATIONS

No recommendations.

SPECIAL LEGISLATIVE DISTRICTS

FIRE & WATER COMMITTEE

Jim Dodson, Chair Susan Jensen Paul McCahon

BACKGROUND

The Fire and Water committee received two letters during this term:

- 1. A letter of inquiry (99-07 A) asked how Kim Whitesides could remain on the board of directors of the Mammoth Community Water District while not residing within the district.
- 2. A letter of complaint (99-07 B) alleged abuse of position by Director Kim Whitesides on the Mammoth Community Water District board through a number of described behaviors.

FINDINGS

- 1. The office of county counsel was asked to provide an opinion on residency requirements for MCWD board members. The opinion states, "In order to serve on the board of the Mammoth Community Water District, an individual must be a 'voter' of the district and be a 'resident' of the district, which means that the individual maintains a residence within the district; the individual has the intent to make that residence his or her permanent home; and there are objective indications that support that intent." The grand jury forwarded this information to the water district's board of directors.
- 2. An investigation conducted by the water district made the following findings relevant to county counsel's opinion:
 - a. Whitesides is a registered voter in Mammoth Lakes.
 - b. Whitesides has declared it is his intention for Mammoth Lakes to be his residence.
- c. Whitesides and his family do not live in Mammoth Lakes; his family presently resides in San Luis Obispo.
- d. Whitesides does not use a Mammoth Lakes address as his home address, and in fact listed his San Luis Obispo address earlier this year on an application for MCWD's new health insurance benefit program.
- e. Whitesides has a "primary residence" tax rate in effect on property located in Utah, and there is no homeowner's exemption on file for any of his Mammoth Lakes properties.
- f. Whitesides' improved properties within the water district have been either listed as rental property and are, or have been, rented to third parties.
- g. Whitesides has stated he has vehicles registered at his San Luis Obispo address. At least one of his vehicles has been reported to have Utah license plates.
- 3. The district attorney was asked to investigate the improprieties alleged in the complaint. The investigation revealed some arguably inappropriate activities, such as storing personal business equipment at MCWD's storage site and making various requests of a personal business nature which were not related to proper water district business.

- 1. Although Whitesides is a registered voter of Mammoth Lakes, it is clear that he is not a resident. He does not maintain a residence within the community, and though he has declared a subjective intent to make Mammoth Lakes his residence, the objective indications do not support that stated intent. In fact, they overwhelmingly indicate otherwise, particularly since the director moved from Mammoth Lakes in 1996 and stated at that time it was his intent to return. After three and a half years he has not done so.
- 2. Because Whitesides is not a resident of the water district, he is not eligible to serve as a director of the MCWD. In fact, his position on the board is, and has been, vacant ever since he relinquished his eligibility.
- 3. The remaining members of the board should declare the position "vacant" and appoint a new director to serve the remaining term of the vacated position.

TOWN OF MAMMOTH LAKES COMMITTEE

Gerard Oliveira, Chair Mary Jo Bauer E.L. Maner Mark Newgard

BACKGROUND

The Town of Mammoth Lakes committee received one complaint during this term.

The letter of complaint (99-06) expressed disagreement with the 1998-99 Grand Jury's conclusions regarding allegations the complainant had made against then Town Manager Tracy Fuller.

FINDINGS

The allegations and Fuller's responses are as follows:

ALLEGATION:

The town has inadequate financial controls in place; certain discrepancies exist between the town manager's oral reports and town council minutes; the town manager has charged certain expenditures against a different fund than that authorized by the town council; and errors exist in certain budgets or reports.

RESPONSE:

Fuller disagreed with the allegations, and supported her position by providing a copy of the most recent audits of the town, which indicated the financial controls are adequate, and the books and records are accurate. She presented a detailed description of the town's financial control system, which appeared entirely reasonable.

ALLEGATION:

The town manager has failed to provide monthly status reports to the town council as required.

RESPONSE:

Fuller said monthly reports indeed had been produced and provided to the town clerk's assistant. Some of these monthly reports, however, had not been provided to town council members. After her departure from the town, Fuller gave copies of what she said were monthly reports to the town council dated Oct. 31, 1998, through March 31, 1999. These reports were "number crunching" at best.

ALLEGATION:

The town manager uses intimidation to squelch any challenge to her authority.

RESPONSE:

Fuller denied the accusation, saying she was a demanding, results-oriented manager, and some employees may have resented her style.

ALLEGATION:

The town manager is in breach of her contract and is "either incompetent or insubordinate."

RESPONSE:

Fuller dismissed this allegation.

At the time of the interview Fuller believed she had the support of a majority of the town council. The committee believes Fuller was cleared of any wrongdoing.

The committee attended numerous town council meetings throughout the year, and thanks the council as a whole for the effort it has put forth in serving the community.

- 1. The town council is responsible for hiring the town manager. Any change can be effected by a simple majority vote, an action which council recently took.
- 2. The next town manager could benefit greatly from an annual or biannual evaluation of job performance. Criteria may include stated objectives put forth by town council and more-detailed monthly reports which include current financial information, previous town council actions and a possible time line for future critical decisions.
 - 3. Input from town department heads would be invaluable in hiring the next town manager.
- 4. Town council should consider: 1) Meeting weekly instead of biweekly, thereby giving council members more time to consider the issues faced, and 2) increasing salaries of council members to match what county supervisors earn. Perhaps with additional time and compensation, the council could spend more time on pressing issues facing the town.
- 5. Although differing viewpoints among council members will always surface, it is hoped that personal differences will be put aside once council votes on an issue.

MAMMOTH/YOSEMITE AIRPORT COMMITTEE

E.L. Maner, Chair Jim Dodson Raymond Johnson Mark Newgard Gerard Oliveira

BACKGROUND

The Mammoth/Yosemite Airport committee received four complaints during this term.

The letters of complaint (99-02 A & B, 99-03 and 99-04) pertained to concerns about the relationship between the Town of Mammoth Lakes and the development and operation of the Mammoth/Yosemite airport.

FINDINGS

This grand jury was unable to complete its investigations into the allegations by the mandated end-of-term date, June 30.

RECOMMENDATIONS

These investigations should be carried on by the 2000-01 Grand Jury.